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Before the
FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

Access Charge Reform for Incumbent
Local Exchange Carriers Subject to
Rate-of-Return Regulation

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CC Docket No. 98-77

COMMENTS
of the
ORGANIZATION FOR THE PROMOTION AND
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES

John N. Rose
Stuart Polikoff
Stephen Pastorkovich

OPASTCO
21 Dupont Circle NW
Suite 700
Washington, DC 20036
(202) 659-5990

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TABLE OF CONTENTS

	Page
SUMMARY.....	iii
I. INTRODUCTION.....	1
II. ANY PLAN TO RECOVER A GREATER SHARE OF ROR LECS' COMMON LINE COSTS THROUGH FLAT-RATED CHARGES MUST RECOGNIZE BOTH DIFFERENCES WITH PRICE CAP LECS AND DIFFERENCES AMONG ROR CARRIERS.....	2
A. RoR carriers' SLCs must be comparable to those charged by price cap LECs.....	3
B. RoR carriers need the flexibility to adopt PICCs that are appropriate for their particular operating environment.....	4
C. RoR carriers will continue to need to recover some common line costs through the per-minute CCL charge for the foreseeable future.....	5
III. ADOPTION OF THE PICC FOR ROR CARRIERS WILL REQUIRE VIGILANT ENFORCEMENT OF LONG DISTANCE GEOGRAPHIC RATE AVERAGING.	6
IV. ROR CARRIERS REQUIRE IMMEDIATE PRICING FLEXIBILITY CONCURRENT WITH ACCESS CHARGE REFORM.....	8
A. General.....	8
B. RoR LECs need immediate individual customer pricing flexibility.....	10
C. Pricing flexibility furthers the Commission's principles of cost-causation, economic efficiency, and competitive neutrality.....	11
D. The Commission must simplify and expedite the tariff filing process for RoR LECs.....	11
E. The Commission should adopt a streamlined Part 69 waiver process for RoR LECs.....	12
F. Sec. 251(f) does not prevent competition in rural areas.....	13

V.	THE COMMISSION MUST ABANDON ITS FLAWED PRIMARY/SECONDARY LINE DISTINCTION ON SLCS AND PICCS.....	14
VI.	IN THE PROCESS OF REFORMING ACCESS FOR ROR CARRIERS, THE COMMISSION MUST ALLOW FOR FULL COST RECOVERY, ADOPT APPROPRIATE TRANSITIONS, AND BE MINDFUL OF OTHER UNFINISHED INTERRELATED PROCEEDINGS	16
VII.	CONCLUSION.....	17

SUMMARY

Access charge reform is a critical proceeding for RoR carriers and the customers they serve. OPASTCO supports the Commission's goals to adopt a more economically efficient rate structure for RoR LECs. However, reform must not take a cookie-cutter approach; it must recognize that RoR carriers are different, both from larger price cap companies and from each other.

OPASTCO believes that it is desirable for a greater share of RoR LECs' common line costs to be recovered through flat-rated charges. However, the adoption of such a rate structure must be executed in a manner that recognizes the significantly higher loop costs RoR LECs bear, and that complies with the 1996 Act's requirement of rate comparability between rural and urban end-user customers.

Towards this end, the Commission should set ceilings on RoR LECs' residential and multi-line business SLCs which are equal to the national average of the respective SLCs charged by price cap carriers. Further, OPASTCO supports the adoption of PICCs for RoR carriers, but LECs should be granted the flexibility to set PICC levels that are appropriate for their individual local market and operating conditions. Even with the adoption of the PICC, the substantially higher revenue requirements of RoR carriers will necessitate the continuation of the CCL charge for some time to come, lest end-user rate comparability and affordability be placed at risk in many rural areas. The Commission must therefore avoid placing a cap or prescribing a maximum rate on the CCL.

If RoR LECs are to adopt the PICC, the Commission must stand ready to diligently enforce the long distance geographic rate averaging requirement of Sec. 254(g). IXCs' pass-through of the PICC in the form of "national access fees" are part of the long distance charges that must be averaged, under the Act. Commission enforcement will ensure that customers served by RoR LECs that may find it necessary to adopt a higher than average PICC will pay the same long distance rates and fees as customers throughout the nation.

Concurrent with the adoption of access charge reform rules, the Commission must also grant RoR carriers pricing flexibility. The growing numbers of competitors entering rural markets today creates an urgency for pricing flexibility that cannot wait for a future proceeding. Access charge reform, by itself, will not be enough to allow RoR carriers to effectively compete with unregulated new entrants. Granting immediate pricing flexibility would enable carriers to quickly move some rates to more efficient levels, to the benefit of all subscribers.

Pricing flexibility will allow RoR LECs to offer rates to large, high-volume business customers that are competitive with those offered by new entrants seeking to cherry pick these subscribers. For RoR carriers, these business customers are often few in number but represent a large portion of their revenue stream, and are critical to keeping rates affordable for the residential customers the LEC is committed to serve. Absent pricing flexibility, these business subscribers will be lost to new entrants, placing upward pressure on rates for the LEC's remaining customers.

The Commission should therefore afford RoR carriers the flexibility to adjust rates for individual customers, at the very least for the common line rate elements -- SLCs, PICCs, and the

CCL. In addition, the Commission may consider flexibility based on zones. The Commission should also permit NECA to develop the necessary administrative procedures that would allow for pricing flexibility in a pooling environment.

Along with the adoption of pricing flexibility measures, the Commission should simplify its Part 61 rules for tariff filings and expedite the review process. In addition, OPASTCO supports the Commission's tentative conclusion to adopt a streamlined Part 69 waiver process for RoR LECs.

OPASTCO once again entreats the Commission to abandon its requirement that carriers distinguish between primary and secondary residential lines. The Commission has tacitly admitted, in rules established for price cap carriers, that such definitions are not feasible to establish. More importantly, requiring RoR LECs to distinguish between primary and secondary lines will impede the penetration of advanced services in rural areas and force carriers to examine the private arrangements of their customers.

Finally, whatever steps the Commission takes to reform the access structure and rates of RoR LECs, it must ensure that these companies are able to fully recover their costs. Absent full cost recovery, the provision of universal service in rural and high-cost areas will almost certainly be imperiled. In addition, the Commission should make sure that its decisions in this proceeding are carefully coordinated with its unfinished proceedings on separations reform and a new high-cost support mechanism for rural carriers.

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**COMMENTS
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ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES**

I. INTRODUCTION

1. The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these comments in response to the FCC's Notice of Proposed Rulemaking (NPRM) on Access Charge Reform for Rate-of-Return (RoR) incumbent local exchange carriers (LECs).¹ OPASTCO is a national trade association representing over 500 independently owned and operated telephone companies serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve over two million customers. Nearly all of OPASTCO's members are RoR regulated LECs. Most small RoR LECs derive, in aggregate, over 60 percent of their revenues through a combination of

¹ *Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, CC Docket No. 98-77, Notice of Proposed Rulemaking, FCC 98-101 (rel. June 4, 1998) (NPRM, Notice).

inter- and intra-state toll access and universal service support mechanisms.² In fact, some companies derive over 60 percent of their revenues from access alone. Hence, actions the Commission takes in this proceeding will have considerable implications for the viability of these companies and their continued ability to provide quality, affordable service to their customers.

II. ANY PLAN TO RECOVER A GREATER SHARE OF ROR LECS' COMMON LINE COSTS THROUGH FLAT-RATED CHARGES MUST RECOGNIZE BOTH DIFFERENCES WITH PRICE CAP LECS AND DIFFERENCES AMONG ROR CARRIERS

2. OPASTCO supports the recovery of a greater amount of RoR carriers' common line costs through flat-rated charges. In particular, OPASTCO supports the adoption of the presubscribed interexchange carrier charge (PICC) for the same reason the FCC has adopted it for price cap carriers. That is, common line costs are non-traffic-sensitive (NTS). Therefore, it is economically inefficient and sends the wrong market signals to recover the bulk of these costs through a per-minute rate.

3. However, small RoR LECs generally face significantly higher loop costs than price cap LECs.³ This will require some modification to the rules that were adopted for price cap carriers so as to maintain rural/urban rate comparability and affordability. It will also require different expectations as to the ability of RoR LECs to transition to a solely flat-rated price structure for common line cost recovery. In addition, differences among RoR LECs create the need for

² United States Department of Agriculture, Rural Utilities Service, *1996 Statistical Report of Rural Telecommunications Borrowers*, (1997).

³ NPRM, para. 36.

individual carrier flexibility so that LECs can adopt the mix of flat-rated and per-minute pricing that is right for their particular operating environment.

A. RoR carriers' SLCs must be comparable to those charged by price cap LECs

4. The subscriber line charge (SLC) is a federally mandated charge imposed directly on the end-user. As such, Sec. 254(b)(3) of the 1996 Act requires that rural customers are assessed SLCs that are comparable to their urban counterparts. As noted in the NPRM, if RoR carriers were required to adopt the same SLC ceilings established for price cap LECs, RoR carrier SLCs on multi-line businesses would rise immediately to the \$9 cap.⁴ This would create a large disparity between RoR carrier SLCs and the SLCs actually being charged by price cap LECs, in violation of the Act's comparability requirement. The Commission can ensure that the comparability mandate is met by establishing ceilings on RoR LECs' residential and multi-line business SLCs that are equal to the nationwide averages of the respective SLCs being charged by price cap LECs.⁵

5. Basing the SLC ceilings for RoR LECs on the nationwide averages of the SLCs charged by price cap carriers would be simple to calculate and administer. It would also be consistent with the national averages used for calculating both the current and new high-cost support mechanisms. Most importantly, RoR carrier SLC ceilings that are equal to the price cap national

⁴ *Id.*, para. 37.

⁵ Also, as discussed in Sec. V of the comments, there should be no difference in the SLC for primary and secondary residential lines.

averages comports with the universal service mandates of the 1996 Act, and is in the public interest.

6. In addition, a large differential in the SLCs being charged by RoR and price cap LECs would create an incentive for price cap carriers and other CLECs to enter RoR LECs' service areas and cream-skim the most lucrative high-volume business customers.⁶ This, in turn, would place upward pressure on rates for the remaining subscribers. Moreover, a significantly higher SLC could act as a deterrent on businesses to locate in rural areas, creating a chilling effect on rural economic development.

B. RoR carriers need the flexibility to adopt PICCs that are appropriate for their particular operating environment

7. RoR LECs are not a homogeneous lot. They vary by size, population density, topography, and other factors.⁷ These differences create the need for regulatory and pricing flexibility. While larger carriers can more easily adapt to a uniform requirement by virtue of their size, a one-size-fits-all policy applied to small LECs often will have negative consequences for rural customers and the companies that serve them.

8. For example, some small LECs serving the most rural areas may fear that charging a PICC any higher than the national average of PICCs charged by price cap carriers will threaten universal service in their areas. Other RoR carriers, however, may find that it is imperative, due to competition, to recover a larger share of costs through flat-rated charges. Either of these approaches to the PICC, if adopted for all RoR carriers, would be problematic for a certain group

⁶ NPRM, para. 37.

⁷ *Id.*, para. 45.

of these LECs. To address the different needs of RoR carriers, OPASTCO recommends that each LEC be permitted to adopt residential and multi-line business PICCs that fit their individual circumstances. By allowing carriers to determine their own PICC levels, the FCC will create a rate level mechanism that is adaptable to each carrier's operating landscape. This will maximize the benefits and minimize the potential for harm for all RoR carriers and their customers.

C. RoR carriers will continue to need to recover some common line costs through the per-minute CCL charge for the foreseeable future

9. The Commission states that imposing the rate structure modifications adopted for price cap LECs on RoR LECs would most likely not align rates with costs as quickly for these carriers.⁸ The Commission is correct. While the residual carrier common line (CCL) charge for many price cap LECs is expected to fall to zero as soon as 1999,⁹ under similar rate structure modifications, RoR LECs' higher revenue requirements will take substantially longer to recover solely through flat-rated charges.¹⁰

10. OPASTCO believes that its recommendations for RoR carriers' SLCs and PICCs, discussed above, will make great strides in improving the efficiency of these LECs' common line cost recovery. However, this plan also balances the need for greater economic efficiency with universal service and rate comparability concerns and necessarily would require RoR carriers to recover some of their common line costs through the CCL charge for the foreseeable future.

⁸ *Id.*, para. 36.

⁹ *Id.*, para. 38.

¹⁰ According to an analysis conducted by the National Exchange Carrier Association (NECA), even if all of the NECA common line pool members charged SLCs and PICCs equal to the ceilings adopted for price cap LECs, these carriers would continue to have a residual CCL charge at least through 2002 (the last year included in the study).

OPASTCO would therefore urge the Commission to also balance principles of cost causation with its universal service mandate and not adopt any rash measures that would force carriers to quickly move these residual costs into flat-rated charges. In particular, the Commission should not cap or otherwise prescribe a maximum rate for the CCL.

11. Cost recovery can be compared to squeezing a balloon. If costs are “squeezed” from one place, they will have to “pop out” somewhere else. Limiting common line cost recovery from the CCL would force small LECs to recover these costs through higher SLCs and PICCs, which may very well threaten end-user rate comparability and affordability in many areas.

12. The Commission should therefore permit RoR carriers to continue to recover some common line costs through the CCL charge until such time as the Commission adopts a new universal service methodology for rural carriers and completes its proceeding on separations reform. Access reform cannot be implemented in a vacuum. Particularly for small and rural carriers, access, universal service, and separations are inextricably tied. It therefore stands to reason that only with a knowledge of the new universal service mechanism for rural carriers and the outcome of separations reform can the Commission develop an adequate long-term recovery method for RoR LECs’ interstate revenue requirements that comports with both the universal service and competitive mandates of the 1996 Act.

III. ADOPTION OF THE PICC FOR ROR CARRIERS WILL REQUIRE VIGILANT ENFORCEMENT OF LONG DISTANCE GEOGRAPHIC RATE AVERAGING

13. As discussed *supra*, OPASTCO believes it is important that RoR carriers be given flexibility as to the PICCs that they charge. Fundamental to this approach, however, is the

FCC's commitment to enforcing Congress' geographic rate averaging mandate in Sec. 254(g) of the 1996 Act. That provision requires IXCs to geographically rate average the various PICCs they are charged by both price cap and RoR carriers. Commission enforcement of Sec. 254(g) will ensure that customers served by LECs that may find it necessary to adopt a higher than average PICC pay the same long distance rates and charges as customers throughout the rest of the nation. A flat-rated "national access fee" that some IXCs have begun to place on subscribers bills -- which is nothing more than a pass-through of the PICC -- is every bit as much a part of the rates that must be geographically averaged under Sec. 254(g) as the long-standing per-minute charge. The FCC recognized this in the Price Cap Access Order.¹¹ In that Order, the Commission denied IXCs' request for a broad exception to Sec. 254(g), stating that, "...because assessing subscribers flat-rated charges on a deaveraged basis could lead to significantly higher rates for subscribers in high-cost areas, we find no basis in this record to conclude that it is unnecessary to enforce section 254(g) to ensure protection of consumers or to protect the public interest."¹²

14. IXCs have already begun charging the subscribers of RoR carriers a national access fee, despite the fact that RoR carriers have yet to adopt the PICC or any similar flat-rated charge. These fees represent tacit recognition on the part of IXCs of their obligation to average the access rates that they are charged over all their customers. However, the charges seen by IXC customers, whether urban or rural, must indeed be the same for all. To the extent that some IXCs

11 *Access Charge Reform*, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997) (Price Cap Access Order).

12 Price Cap Access Order, para. 97.

may be exacting different and higher charges from their rural customers, the FCC must act promptly and resolutely to end this practice.¹³

15. If the FCC wishes RoR LECs to recover a portion of their common line revenue requirement through the PICC, then it must ensure that its rules explicitly forbid IXC's from passing through to customers any charges -- including flat-rated charges -- in deaveraged form. In addition, the Commission should monitor the PICC and other charges to ensure compliance, establish an expedited process to resolve complaints of violations, and provide adequate information for consumers.¹⁴

IV. RoR CARRIERS REQUIRE IMMEDIATE PRICING FLEXIBILITY CONCURRENT WITH ACCESS CHARGE REFORM

A. General

16. The NPRM repeatedly argues that RoR carriers' current access rate structure is inefficient because it causes high-volume toll users to effectively subsidize low-volume users. The Commission believes that by recovering a greater share of their NTS costs through flat-rated charges, RoR carriers would become more competitive.¹⁵ OPASTCO agrees with the Commission in theory and supports this effort. However, RoR carriers' significantly higher cost

¹³ See, Rural Telephone Coalition (RTC) letter to FCC Chairman William E. Kennard, Feb. 3, 1998.

¹⁴ The Commission should reconsider its decision in CC Docket No. 96-61 to eliminate the public disclosure requirement for mass market interstate, domestic interexchange services and require IXC's to post their rates on-line, as OPASTCO has previously recommended. Requiring rates to be posted on the Internet would provide an effective and efficient method of enforcement at minimal cost or burden to IXC's. See, RTC Petition for Partial Reconsideration, CC Docket No. 96-61, Dec. 23, 1996, pp. 2-5; RTC Reply to Opposition, CC Docket No. 96-61, Jan. 7, 1997; RTC Comments, CC Docket No. 96-61, Jan. 7, 1998.

¹⁵ See, for example, NPRM, paras. 2, 12, 24, 25.

of providing service, coupled with universal service and rate comparability concerns, will result in a much slower and longer transition to new rate levels. Granting RoR LECs immediate pricing flexibility would enable carriers to quickly move some rates to more efficient levels and compete more effectively with new entrants.¹⁶ This is ultimately to the benefit of all the LEC's customers. First, large business customers' choice of service providers will not be limited by pricing constraints imposed on the incumbent. And this, in turn, improves the chances that rates will remain affordable for higher-cost subscribers not sought after by new entrants.

17. As new, more economical technologies emerge at an unprecedented rate, an increasing number of carriers will begin to see profit potential in rural areas and include them in their service plans. For example, the Cellular Telecommunications Industry Association (CTIA) recently announced that within six months, they expect several wireless carriers to begin experiments with systems that will apply wireless technologies to deliver service to hard-to-reach rural areas at the same level of quality as wireline carriers.¹⁷ Thus, RoR carriers cannot wait for the Commission to address pricing flexibility in a future proceeding, as the NPRM suggests.¹⁸

18. As discussed in Sec. II of these comments, OPASTCO recommends that the Commission adopt SLC ceilings for RoR carriers that are equal to the price cap national averages and permit carriers to determine their own PICCs. OPASTCO believes that these recommendations appropriately balance cost-causation and universal service principles. Yet, when these charges are applied over an entire study area, it will, absent flexibility, force the LEC to price higher than

¹⁶ *Id.*, para. 2.

¹⁷ *Communications Daily*, July 1, 1998, p. 5.

¹⁸ NPRM, para. 5.

it otherwise would in the lower-cost, more densely populated segments of its territory. Not surprisingly, these are the areas where the largest business customers tend to be located.

B. RoR LECs need immediate individual customer pricing flexibility

19. Typically, the service areas of small RoR LECs have only a handful of large businesses which represent a significant portion of their access revenue streams. Therefore, small RoR LECs lose a proportionately greater percentage of revenues than would a price cap LEC when a large customer is lost to a competitor. Because they rely so heavily on access revenues to remain operational, such large, high-volume business customers are essential to small LECs. Obviously, these multi-line, high-volume business customers will be the prime targets of new entrants.¹⁹ And, as the Commission acknowledges, the loss of high-volume customers will jeopardize the source of revenues that covers the costs of providing service to low-volume subscribers.²⁰ This necessarily places pressure on LECs to raise the rates of these low-volume subscribers, to whom new entrants will often be uninterested in serving.

20. The Commission should address these concerns by immediately adopting pricing flexibility for RoR carriers, concurrent with the first order in this proceeding. At the very least, flexibility measures should be adopted for the common line rate elements -- SLCs, PICCs, and the CCL. Carriers should be afforded the flexibility to adjust rates for individual customers. In addition, the Commission may also consider flexibility based on zones. LECs that are members

19 As FCC Chairman William Kennard stated in a speech before OPASTCO members, "The only competition you may see is someone trying to cream skim your largest customers. You must be able to respond to such threats." Remarks by William Kennard, Chairman, FCC to OPASTCO, Fort Lauderdale, FL, Jan. 12, 1998.

20 NPRM, paras. 12, 25.

of NECA's common line pool need pricing flexibility as well, and the Commission should not preclude them from any flexibility afforded to companies outside of the pool. The Commission should allow NECA to develop the necessary administrative procedures that would permit companies to target rates to customers and zones within the pooling environment.

C. Pricing flexibility furthers the Commission's principles of cost-causation, economic efficiency, and competitive neutrality

21. Adoption of pricing flexibility measures will further the Commission's goals of economic efficiency and cost causation in that it will allow RoR carriers to create a stronger correlation between the cost of serving an individual or group of customers and the rates that they and their IXC are charged. Without pricing flexibility, unregulated new entrants will be able to offer lower rates to the low-cost customers, although these rates remain above what the LEC would charge absent current pricing constraints.²¹ This is not competition, but arbitrage, created by the regulatory environment. Nor is it harmonious with the Commission's oft-repeated principle of competitive neutrality. Worse, this arbitrage must be paid for through higher rates on residential and small business customers.

D. The Commission must simplify and expedite the tariff filing process for RoR LECs

22. Along with the adoption of pricing flexibility measures, the Commission should also simplify its Part 61 rules for tariff filings and expedite the review process. OPASTCO recognizes that §61.39 of the Commission's rules offers small LECs an optional method for filing supporting information on their historical costs. These provisions, however, were designed

²¹ *Id.*, para. 2.

prior to the 1996 Act and do not begin to address the realities of the new post-Act landscape. The extensive cost justifications that are currently required to establish a new tariff are time consuming and onerous, and place the incumbent at a distinct disadvantage compared to unregulated CLECs. In a competitive environment, carriers need to be able to respond quickly to their competitors' service offerings and rates. RoR LECs need the ability to propose a rate to a customer without having to wait considerable lengths of time for Commission approval. High-volume business customers are not going to wait for the incumbent LEC to jump through the necessary regulatory hoops when they may be able to obtain a better rate from a competitor. By the time Commission approval is granted, it is already too late -- the customer has been lost, to the potential detriment of the LEC's remaining customers. The Commission should therefore revise its rules so that RoR LECs' tariff filings can be completed and approved quickly and with minimal burden, thereby creating a more even playing field to the benefit of consumers. At the same time, RoR carriers recognize that they are subject to earning within the Commission authorized levels.

E. The Commission should adopt a streamlined Part 69 waiver process for RoR LECs

23. OPASTCO agrees with the Commission's tentative conclusion to adopt the streamlined petition provisions of Section 69.4(g) for RoR LECs.²² The streamlined process should not be limited to petitions granted to other RoR LECs because new service offerings are often modeled after those already introduced by price cap LECs.

²² *Id.*, para. 95.

F. Sec. 251(f) does not prevent competition in rural areas

24. The Commission contends that the rural exemptions, suspensions, and modifications provisions of Sec. 251(f) may delay competitive entry in many RoR LEC service areas.²³ This assertion is unfounded. Competition in various forms -- i.e. Internet, wireless, etc. -- already exists in most RoR LEC service areas and is certain to reach nearly all markets in the near future.

25. The market profiles of rural areas diverge widely. The decision of a competitor to enter a service area is based on economic and demographic considerations, such as the number of business customers, subscriber density, geography, income levels, etc. To the degree that forms of wireline competition have been slower to reach some rural areas, it is because of these types of considerations, not Sec. 251(f). In addition, while Sec. 251(f) does initially exempt rural incumbent LECs from the Act's interconnection requirements, state commissions have the authority to terminate the exemption, pursuant to a request from a competitor and a public interest determination.²⁴ In any event, Sec. 251(f) provides no barrier to a competitor wishing to offer service to a rural area through its own facilities. Therefore, the Commission must not use Sec. 251(f) as a rationale for delaying the adoption of pricing flexibility measures, but must grant flexibility along with the reform of RoR carriers' access charge structure.

²³ *Id.*, para. 12.

²⁴ 47 U.S.C. § 251(f)(1)(B).

V. THE COMMISSION MUST ABANDON ITS FLAWED PRIMARY/SECONDARY LINE DISTINCTION ON SLCS AND PICCS

26. OPASTCO has explained in prior comments the numerous pitfalls of the Commission's policy to distinguish between primary and secondary residential lines.²⁵ Thus far, the policy has only been applied to price cap carriers. OPASTCO recommends that the Commission abandon its primary/secondary line distinction for all LECs.²⁶ However, if the Commission decides to continue to require price cap carriers to maintain this distinction, it must not impose the flawed policy on RoR carriers.

27. Rather than establish standard, uniform definitions of primary and non-primary lines in CC Docket No. 97-181, the Commission has begun to require each price cap LEC to develop its own definition, subject to an arbitrary, after-the-fact determination by the Commission that each definition is "reasonable."²⁷ This constitutes a tacit admission by the Commission that it is infeasible to establish workable industry-wide definitions. As it stands, a lack of uniform definitions is inequitable to consumers, for what is labeled as a primary line in one service area may be classified as a secondary line in another.²⁸

25 See, RTC comments, CC Docket 96-262, Jan. 29, 1997, pp. 7-9; RTC Reply Comments, CC Docket No. 96-262, Feb. 14, 1997, 11-13; RTC Petition for Reconsideration, CC Docket No. 96-262, July 11, 1997, pp. 7-8; RTC Comments, CC Docket No. 97-181, Sept. 25, 1997, pp. 2-4.

26 The Commission has an excellent opportunity to reconsider its primary/secondary line distinction in CC Docket No. 97-181, *Primary Line Definition*, where it has yet to render a decision.

27 *Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, Memorandum Opinion and Order, FCC 98-106 (rel. June 1, 1998), para. 34.

28 The Commission uses what amounts to a quota system to determine whether a price cap carrier's definition is "reasonable," based on estimates of secondary line penetration and statistical extrapolation. *Id.*, para. 39. Such methods would not be as easily applied to small RoR carriers, which have fewer lines so averages are even less meaningful.

28. In addition, as OPASTCO has explained in the past, second lines are often purchased in rural areas for Internet access, fax machines, and other advanced services where distance to schools and libraries is substantial. Increasing the SLC on these lines for rural subscribers could only serve to discourage or even prevent access to information services and advanced technologies. Subscribers would also be subject to intrusive inquiries about their private lives by their local carrier, creating ill-will between company and customer. Furthermore, small LECs would be saddled with the impossible task of classifying customers' telephone connections, living arrangements, and alternative residences, only magnifying the competitive inequality between LECs and their competitors. Also, assuming that some customers will act in their own economic self-interest, it is doubtful that LECs can effectively enforce such a policy.

29. The preamble to the Telecommunications Act of 1996 states the intent of Congress "to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans..." The Commission's policy to distinguish between primary and secondary residential lines runs counter to every aspect of Congress' goals. It should therefore abandon its primary/secondary line distinction for all LECs and treat all residential lines the same, with respect to SLCs and PICCs. At the very least, the Commission must not apply the policy to RoR carriers.

VI. IN THE PROCESS OF REFORMING ACCESS FOR ROR CARRIERS, THE COMMISSION MUST ALLOW FOR FULL COST RECOVERY, ADOPT APPROPRIATE TRANSITIONS, AND BE MINDFUL OF OTHER UNFINISHED INTERRELATED PROCEEDINGS

30. OPASTCO supports the notion that the current access regime is inefficient and unsustainable in the post-1996 Act environment. Nonetheless, it is vital that in the process of reform, the Commission ensure that RoR LECs -- with their long-standing universal service commitments -- continue to be able to recover their costs of providing service. These costs were incurred as a result of federal and state requirements for network investments that have enabled the delivery of ubiquitous, modern telecommunications service throughout the nation. While the 1996 Act indicates that Congress intended to promote competition and deregulation, there is no indication that it intended the FCC to ignore past history as it enacts rules for transitioning to a new regulatory regime. Telecommunications service to all areas of the country has been possible largely because small RoR LECs have remained financially viable and committed to delivering quality, affordable service to high-cost areas. Any changes that threaten the financial viability of these LECs would almost certainly endanger the provision of universal service as mandated by the 1996 Act.

31. OPASTCO firmly believes that reform of RoR LECs' access rate structures should get underway as soon as possible. Access reform coupled with pricing flexibility is necessary so that companies can better serve their customers and respond to changes in the marketplace. As the Commission proceeds, however, it should do so carefully, with transitional mechanisms that take into account the unique high-cost nature of these service areas. The Commission should also

make sure that its decisions are carefully coordinated with its proceedings on separations reform and a new high-cost support mechanism for rural carriers.²⁹ The Commission is well aware that all of these dockets are interrelated. Jurisdictional separations necessarily affects which interstate costs must be recovered via access charges and universal service programs. And, until it is determined the extent of support that the new universal service mechanism will provide to keep rural and urban rates comparable, some changes in access for many RoR LECs may be premature.³⁰

32. Only after the outcome of these proceedings is known can the Commission determine their cumulative impact and evaluate whether it has achieved the 1996 Act requirements, including its universal service mandates. Until that time, OPASTCO would urge the Commission during the reform process to always be mindful of the decisions it has yet to make in these other proceedings and their interrelated effect on small RoR LECs and their customers.

VII. CONCLUSION

33. Access reform for RoR carriers is a complex undertaking with major ramifications for these companies and the largely rural customer base that they serve. Reform undoubtedly needs to get underway as soon as practicable, but with a recognition that RoR companies are different, both compared with larger carriers and from each other. Pricing flexibility is also necessary to promote a more level playing field and to better ensure that residential subscribers are not left

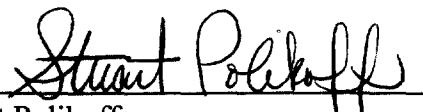
29 A new universal service mechanism will not be implemented for rural LECs until January 1, 2001, at the earliest. NPRM, para. 6.

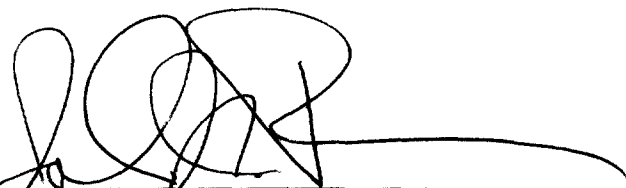
30 For example, it would not be reasonable to require RoR carriers to completely eliminate the CCL charge or the transport interconnection charge (TIC) prior to the completion of the separations and universal service proceedings.


picking up the tab for rural markets cream-skimmed by new entrants. By heeding the recommendations outlined above, the Commission will promulgate rules that provide RoR companies with the latitude to adopt rates that are appropriate for their particular marketplace conditions, and that recognize the universal service implications for rural subscribers.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROMOTION AND ADVANCEMENT OF
SMALL TELECOMMUNICATIONS COMPANIES**

By: 
Stuart Polikoff
Senior Regulatory and
Legislative Analyst

By: 
John N. Rose
President

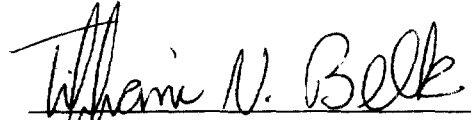
By: 
Stephen Pastorkovich
Regulatory and Legislative Analyst

OPASTCO
21 Dupont Circle NW
Suite 700
Washington, DC 20036
(202) 659-5990

August 17, 1998

CERTIFICATE OF SERVICE

I, Tiffani N. Belk, hereby certify that a copy of OPASTCO's comments was sent on this, the 17th day of August, 1998 by United States mail, first class, postage prepaid, to those listed on the attached sheet.


Tiffani N. Belk